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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/658,128	09/09/2003	Daniel J. Vavrick	84208	. 5431
23501	7590 11/22/2005		EXAMINER	
NAVAL SURFACE WARFARE CENTER, DAHLGREN DIVISION OFFICE OF COUNSEL, CODE XDC1			GELLNER,	IEFFREY L
17320 DAHLGREN ROAD		ART UNIT	PAPER NUMBER	
DAHLGREN, VA 22448-5110			3643	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)			
Office Action Summary		10/658,128	VAVRICK, DANIEL J.			
		Examiner	Art Unit			
		Jeffrey L. Gellner	3643			
Period fo	The MAILING DATE of this communication ap or Reply	opears on the cover sheet with the	correspondence address			
WHIC - Exte after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPLICATION OF THE MAILING INSIDE TO THE MAILING TH	DATE OF THIS COMMUNICATION 136(a). In no event, however, may a reply be will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDON	DN. timely filed on the mailing date of this communication. NED (35 U.S.C. § 133).			
Status						
1)⊠	Responsive to communication(s) filed on 19	<u>September 2005</u> .				
/	This action is FINAL . 2b)⊠ This action is non-final.					
3)∟	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
	closed in accordance with the practice under	Ex parte Quayle, 1935 C.D. 11,	453 O.G. 213.			
Dispositi	ion of Claims					
5)□ 6)⊠ 7)⊠	Claim(s) <u>1-28</u> is/are pending in the applicatio 4a) Of the above claim(s) <u>13-28</u> is/are withdra Claim(s) is/are allowed. Claim(s) <u>1-9 and 12</u> is/are rejected. Claim(s) <u>10 and 11</u> is/are objected to. Claim(s) are subject to restriction and/	awn from consideration.				
Applicat	ion Papers		·			
10)	The specification is objected to by the Examir The drawing(s) filed on is/are: a) ac Applicant may not request that any objection to the Replacement drawing sheet(s) including the corre The oath or declaration is objected to by the Examiration.	ccepted or b) objected to by the edrawing(s) be held in abeyance. Sometion is required if the drawing(s) is continuous.	ee 37 CFR 1.85(a). Objected to. See 37 CFR 1.121(d).			
Priority (under 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
2) Notice 3) Information	ot(s) Dee of References Cited (PTO-892) Dee of Draftsperson's Patent Drawing Review (PTO-948) Mation Disclosure Statement(s) (PTO-1449 or PTO/SB/08 Der No(s)/Mail Date	4) Interview Summa Paper No(s)/Mail 5) Notice of Informal 6) Other:				

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Invention I (claims 1-12) and an aluminum foam, with tetrafluoroethylene and finely divided aluminum particles in the reply filed on 19 September 2005 is acknowledged. The traversal is on the ground(s) (given in the Remarks) that: for the invention requirement, the Examiner has not explained what is meant by "layering" and has not shown that layering is materially different than what is claimed; and, for the species requirement, there is no burden since all species are classified in the same class and subclass. This is not found persuasive because: for the invention requirement, Examiner considers the definition of "layering" to be the definition used in subclass 149/14 which defines an explosive with contiguous layers or zones as "[p]roducts which include at least two separate and distinct superimposed or contiguous layers or forms of different components or of components having different properties; e.g., one layer may constitute the base charge and a second layer the primer charge." As to being materially different, a layered explosive of alternating layers of foam aluminum and Teflon would, inter alia, have different surface area characteristics; and, for the species requirement, Examiner considers the different possible species combinations to be patentably distinct. Hence, a burden to examine since the combinations are to different distinct inventions.

The requirement is still deemed proper and is therefore made FINAL. Claims 13-28 are withdrawn form examination since they are drawn to a non-elected invention.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Wuenscher (US 3,592,628).

As to claims 1-7 and 12, Wuenscher discloses a reactive material, which would be an ordnance, comprising a metal foam (col. 3 lines 38-43) and a polymer - Teflon (col. 3 lines 38-43).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wuenscher (US 3,592,628).

As to claims 8 and 9, the limitations of claim 1 are disclosed and described above. Not disclosed is adding finely divided aluminum particles to the material. Wuenscher, however, discloses adding several metal particles to a foam (from col. 4 lines 55-58). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the material of

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Wuenscher by adding a second metal as disclosed by Wuenscher the metal being aluminum so as to achieve a specific metallurgical goal.

Allowable Subject Matter

Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Waite et al. disclose in the prior art an explosive of aluminum and polytetrafluoroethylene. Crowley et al., Hayes, and Martin disclose in the prior art various compositions of a metal foam and Teflon.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00, alternate Fridays off, if attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeffrey L. Gellner Primary Examiner

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